

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

Inventor : STARR et al.
Appln. No. : 10/763,971
Conf. No.: : 7901
Filed: : January 23, 2004
Title: : METHOD AND APPRATUS FOR DETERMINING CARDIAC
OUTPUT
Group Art Unit : 3735
Examiner : Natnithithadha, N.
Docket No. : 98-39 C2

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August 8, 2007

TERMINAL DISCLAIMER
(By Attorney)
Re Double-Patenting Rejection

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

The undersigned petitioner, an attorney of record, is hereby acting for the undernamed entity, which is the 100% owner of all rights, title, and interests in the subject application:

1. ☐ by virtue of being the inventor(s) and having not assigned this application;
2. ☒ as shown on the Assignment recorded November 8, 2005 on Reel 16747 at Frame 0177; in U.S. Patent Appln. Nos. 10/172,271 and 09/691,595, now U.S. Patent Nos. 6,699,203 and 6,413,226, which are the parents of the present application;
3. ☐ as shown by the attached copy of the Assignment filed for recordal on _____;
4. ☒ and, if the Assignor in the Assignment is not the original owner, the chain of title from the original owner to that Assignment as recorded on:
Reel 16741 at Frame 0570, Reel 11804 at Frame 0944;

and hereby disclaims (except as provided below) the terminal part of the statutory term of any patent granted on the subject application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shorted (if at all) by any terminal disclaimer of:

5. ☐ any patent granted in regard to U.S. Application No. _____ filed _____;
6. ☒ the earlier granted United States Patent Numbers 6,699,203 and 6,413,226;
to which said entity also has legal title.

Petitioner hereby reserves the right to extend the term of the patent, which issues on this application, for regulatory delay or otherwise as the law allows. Petitioner hereby agrees that any patent so granted on the subject application shall be enforceable only for an during such period that it and the patent(s) in the above items numbered 5 or 6 are commonly owned. This agreement runs with any patent granted on the subject application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the patent(s) in the item numbered 5 or 6 above, as presently shortened by any terminal disclaimer, of the above-listed patent in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminal disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its fully statutory term as presently shorted by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Entity: RESPIRONICS, Inc.

Attorney Signature Michael W. Haas

Name: Michael W. Haas

Reg. No.: 35,174

Date: August 8, 2007

Note: The Commissioner is authorized to charge the Terminal Disclaimer fee required under 37 C.F.R. § 1.20(d) to Deposit Account No. 50-0558. Two copies of a Fee Transmittal form are submitted for this purpose.